

-6-

REMARKS

This Amendment is in response to the Office Action dated October 17, 2005. In the Office Action, claims 1-24 were rejected. With this Amendment, claims 1, 7-11, 17, 19-20 and 23-24 are amended and claim 2 is canceled. It is respectfully submitted that claims 1-22 are in condition for allowance.

Claims 1, 3, 6-8, 10-14, 17, 18, 20, 23 and 24 were rejected under 35 U.S.C. §102(e) as being anticipated by Proctor (U.S. Patent No. 6,614, 349). Independent claims 1, 17 and 23 and dependent claims 7-11, 19-20 and 24 have been amended to incorporate features of dependent claim 2. Accordingly, claim 2 is canceled. It is respectfully submitted that Independent claims 1, 17 and 23 are not anticipated by the cited reference.

Claim 2 was rejected under 35 U.S.C. §103(a) as being unpatentable over Proctor in view of Bohmer (U.S. Patent No. 5,130,658). Features of claim 2 have been incorporated into independent claims 1, 17 and 23. It is respectfully submitted that there is not a sufficient suggestion or motivation to combine the cited references. The only statement provided for motivation to combine is on page two of the Office Action and states, "it would have been obvious at the time of the invention to include a battery tester to the apparatus of Proctor as taught by Bohmer for the purpose of preventing theft in automotive vehicle service". This statement relies on the teachings of Applicant's disclosure. Such use of hindsight is improper.

Even if the cited references could be combined, the combination of cited references fail to teach or suggest all of the claim elements of amended claims 1, 17 and 23. The combination of cited references fail to teach or suggest "at least one battery tester for use in the automotive vehicle service centers" claimed in claims 1 and 17 and therefore also fails to teach or suggest a battery tester including "a receiver configured to receive the transmitted security signal" and "security circuitry coupled to the receiver and configured to disable the battery tester if the battery tester is outside the perimeter defined by the security signal" as claimed in amended claims 1 and 17. Furthermore, the combination of cited references fail to teach or suggest "receiving the transmitted security signal with a receiver embedded in a battery tester" and "disabling the battery tester when the battery tester is outside the perimeter defined by the security signal".

Claims 4-5 were rejected under 35 U.S.C. §103(a) as being unpatentable over Proctor. Claims 9, 16, 19 and 22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Proctor in view of Page

-7-

(U.S. Patent No. 6,542,080). Claims 15 and 21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Proctor in view of D'Angelo (U.S. Patent No. 6,265,974).

It is respectfully submitted that claims 4-5, 9, 15-16, 19 and 21-22 are allowable over the cited references as being dependent upon one of allowable base claims 1, 17 and 23. However, it is respectfully submitted that these claims are allowable over the cited references for additional reasons. For example, even if the Proctor and Page references could be combined, the combination does not teach or suggest "the battery tester comprising an output operably coupled to the security circuitry, wherein the security circuitry is further configured to output a continuous audible noise if the battery tester is outside the perimeter defined by the security signal" or "the processing circuitry further configured to output an audible alarm when the processing circuitry receives the transmitted theft signal" as claimed in claims 9, 16, 19 and 22. In another example, even if the Proctor and D'Angelo could be combined, the combination does not teach or suggest that "the processing circuitry further comprises a memory, wherein the processing circuitry is configured to record information related to the transmitted theft signal to the memory" as claimed in claims 15 and 21.

It is respectfully submitted that claims 1 and 3-22 are in condition for allowance. Favorable action is respectfully requested.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

WESTMAN, CHAMPLIN & KELLY, P.A.

By: 

Leanne R. Taveggia, Reg. No. 33,675
Suite 1400 - International Centre
900 Second Avenue South
Minneapolis, Minnesota 55402-3244
Phone: (612) 334-3222
Fax: (612) 334-3312

LRT/jme